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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,811	05/30/2001	Takeshi Yukitake	JEL-29186C-RE-DIV4	8306
7590 02/19/2004				
James E Ledbetter Esq Stevens Davis Miller & Mosher LLP 1615 L Street NW Suite 850 P O Box 34387 Washington, DC 20043-4387		EXAMINER LEE, RICHARD J		
		ART UNIT PAPER NUMBER		
		2613		
		DATE MAILED: 02/19/2004		

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/866,811

Applicant(s)

YUKITAKE ET AL.

Examiner

Richard Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 12, 13 is/are allowed.
- 6) ☒ Claim(s) 4-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. It is noted that there is a discrepancy between the claims as listed on pages 3-9 of the amendment filed November 24, 2003 and the marked up version of the claims as presented at pages 15-20 of the amendment filed November 24, 2003. The claims to be entered, however, are the ones that are listed with the underlinings as shown at pages 3-9 of the amendment filed November 24, 2003. Therefore, the Examiner will only consider the claims as provided at pages 3-9 of the amendment for examination purposes.

2. The applicants are informed again that the Statement Under 37 CFR 3.73(b) and the Assent of Assignee as filed are defective since both communications have failed to provide the required dates when signed.

The applicants make note at page 11 of the amendment filed November 24, 2003 that both the Statement under 37 CFR 3.73(b) and the Assent of Assignee were filed and accepted in parent reissue application no. 09/559,627 without objection to absence of a date. The Examiner wants to point out that the absence of dates for the Statement under 37 CFR 3.73(b) and the Assent of Assignee in parent case 09/559,627 was overlooked by the Examiner, and consequently such omission of dates are not in fact acceptable in parent case 09/559,627.

Objection was made to the Statement under 37 CFR 3.73(b) and the Assent of Assignee in parent case 09/559,627 as being defective in the Office Action dated January 15, 2004. Concerning the present case, it is still a requirement for the applicants to provide new signed and dated Statement under 37 CFR 3.73(b) and Assent of Assignee documents.

3. The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

The reissue declaration as filed is defective since it is a duplicate of that filed in parent case 09/559,627. The error(s) set forth and corrected in the present reissue application cannot be the same error(s) being corrected in the parent reissue application 09/559,627. The present reissue declaration must provide/state new error(s) for correction.

The applicants argue at page 10 of the amendment filed November 24, 2003 that MPEP 1414 requires merely that the reissue declaration at least one error relied upon as the basis for the reissue and that the noted error may be the same for both the parent and divisional reissue. The Examiner does not understand the applicants' reference to the divisional reissue as stated. Though it is true that MPEP 1414 requires that the reissue declaration specify at least one error relied upon as the basis for the reissue, MPEP 1414 does not state that the same error may be indicated in the respective declarations of copending reissues (i.e., multiple reissues). The Examiner believes that the applicants may have misinterpreted MPEP 1414. As understood by the Examiner, MPEP 1414 requires that each co-pending reissue application must have a new and distinct error to correct. Further, by having the same error in multiple reissue applications, this violates 35 U.S.C. 251. If one of the co-pending reissue applications were to be allowed, thereby correcting the error, then there would be no more/other errors to correct. And if there are no more/other errors to correct, then what would be the reason(s) to allow the other co-pending reissue applications?

Upon further review of the original declaration filed May 30, 2001, it appears that numerous other errors exist. The filing date of July 20, 1994 for serial number 09/559,627 as

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indicated in the declaration filed April 13, 2001 is incorrect. The correct filing date is April 27, 2000. In addition, the declaration makes reference to the specification filed April 27, 2000, but without reference to any corresponding application. The applicants are advised to carefully review the declaration to ensure that the new supplemental declaration to be filed does not include the same errors or any other potential error(s) that the Examiner may have overlooked.

4. Claims 4-11 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

5. The draft supplemental reissue declaration filed November 24, 2003 is not acceptable for the same reasons as stated in the above paragraph (3).

6. Claims 8-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for the same reasons as set forth in paragraph (7) of the last Office Action (see Paper no. 5).

For examples:

(1) claim 8, line 11, "MV2" should be changed to "MV1" in order to provide proper antecedent basis for the same as specified at line 4;

(2) claim 10, line 2, "R1" should be changed to "r1" in order to provide proper antecedent basis for the same as specified at claim 4, line 4;

(3) claim 10, line 2, "R2" should be changed to "r2" in order to provide proper antecedent basis for the same as specified at claim 4, line 7;

(4) claim 11, line 2, "R1" should be changed to "r1" in order to provide proper antecedent basis for the same as specified at claim 5, line 4; and

(5) claim 11, line 2, "R2" should be changed to "r2" in order to provide proper antecedent basis for the same as specified at claim 5, line 7.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

8. Claims 4-11 are rejected under 35 U.S.C. 102(a) as being anticipated by Yukitake of record "Field-time Adjusted MC for frame-base coding (2)".

Yukitake discloses a field time adjusted motion compensation for frame base coding as shown in Figures 1 and B.1, and the same method and apparatus as claimed in claims 4-11 of determining motion compensation for an input image, the method and apparatus comprising the same providing a first motion vector MV (i.e., MV_{frm} for frames f₀ to f₂ as shown in Figure B.1) between the input image/motion compensated image and a reference image part r₁ of one reference image R₁ having a plurality of reference image parts; calculating a second motion vector MV₂ (i.e., MV_{frm} for frames f₁ to f₃ as shown in Figure B.1) between the input image/motion compensated image and a reference image part r₂ of another reference image R₂ having a plurality of reference image parts from the first motion vector MV₁; calculating pixel values of the reference image parts r₁ and r₂ from peripheral pixels at positions corresponding to the first and second motion vectors MV₁ and MV₂, wherein the reference images R₁ and R₂ are such that a motion vector MV₃ (i.e., -MV_{fld} of Figure B.1) between the reference image parts r₁

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and r_2 has a mathematical relationship with the first and second motion vectors MV_1 and MV_2 in which the motion vector MV_3 is parallel to and different in value from each of the first and second motion vectors MV_1 and MV_2 , wherein the reference images R_1 and R_2 and parts R_1 and R_2 are previous to the input image/motion-compensated image in a time sequence (see Figure B.1); and calculating the motion compensation for the input image from the pixel values of the reference image parts r_1 and r_2 to determine the motion compensation (see pages 1 and 8).

9. Regarding the applicants' arguments at pages 11-13 of the amendment filed November 24, 2003 concerning in general that "... In Yutake, the motion compensation for two input images f_2 and f_3 is separately determined on the basis of two reference images f_0 and f_1 . The motion vector for two input images f_2 and f_3 has the same magnitude of MV_{frm} . This is because the motion compensation is determined on the basis of the motion vector MV_{frm} having the same magnitude as that of the motion vector between input images f_2 and f_3 and the reference images f_0 and f_1 (the reference image f_0 relative to the input image f_2 and the reference image f_1 relative to the input image f_3 corresponding to the reference image of the same polarity) having the same polarity as that of the input images f_2 and f_3 ... the present claimed invention is based on two motion vectors each of which is between one input image and two respective images R_1 and R_2 , whereas Yutake is based on the motion vector MV_{frm} between the input image and one reference image (f_0 or f_1) which corresponds to the motion vector MV_1 of the present claimed invention, and the motion vector MV_{fld} between two reference images f_0 and f_1 . The present claimed invention differs from Yutake in that Yutake uses the motion vector Mv_{fld} between reference images while the present invention uses the motion vector MV_2 between the input image and a reference image ...", the Examiner wants to point out that though Yukitake may

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teach the particular calculation of a motion vector Mv_{fld} between reference images, Yukitake is also concerned with the calculation of two motion vectors each of which is between one input image and two respective images. As shown in Figure B.1 of Yukitake, Yukitake teaches the same providing a first motion vector MV (i.e., MV_{frm} for frames f_0 to f_2 as shown in Figure B.1) between the input image/motion compensated image and a reference image part r_1 of one reference image R_1 having a plurality of reference image parts, and calculating a second motion vector MV_2 (i.e., MV_{frm} for frames f_1 to f_3 as shown in Figure B.1) between the input image/motion compensated image and a reference image part r_2 of another reference image R_2 having a plurality of reference image parts from the first motion vector MV_1 , as claimed. Further, Yukitake teaches the same motion compensation calculation for the input image from the calculation of pixel values of the reference image parts r_1 and r_2 (see pages 1 and 8 of Yukitake). For the above reasons, it is submitted that the claimed invention is rendered anticipated by Yukitake.

10. Claims 12 and 13 are allowed.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks
Washington, D.C. 20231

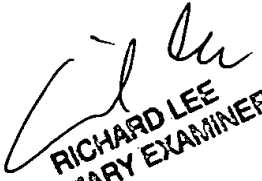
or faxed to:

(703) 872-9314, (for formal communications; please mark "EXPEDITED
PROCEDURE") (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal
Drive, Arlington, VA., Sixth Floor (Receptionist).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Lee whose telephone number is (703) 308-6612. The Examiner can normally be reached on Monday to Friday from 8:00 a.m. to 5:30 p.m, with alternate Fridays off.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group customer service whose telephone number is (703) 306-0377.


RICHARD LEE
PRIMARY EXAMINER

Richard Lee/rl

2/18/04 